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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,235	01/23/2004	Daniel J. O'Mahony	P26,479-B USA	8285

23307 7590 12/28/2005
SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 191072950

EXAMINER

ROOKE, AGNES BEATA

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/764,235	O'MAHONY ET AL.	
	Examiner	Art Unit	
	Agnes B. Rooke	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4, 6, 7-30 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 4, 6, 14, 15 and 19-22 is/are allowed.
- 6) ☒ Claim(s) 12, 13, 16-18 and 23-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>none</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

This final action is in response to the Applicant's reply filed on 11/07/2005.

The amendments to the claims filed on 11/07/2005 have been acknowledged.

Claims 2, 4, 6, 7-30 are pending. Claims 1, 3, and 5 are cancelled.

Claim 7-11 are withdrawn.

This application is a continuation of 09/671,089 filed 09/27/2000 now patent 6,780,846, which claims benefit of 60/156,246 filed on 09/27/1999.

If Applicants want to file for the rejoinder, the scope of the method claims must be the same as the scope of the composition claims. Thus, claims 7-11 stand withdrawn. Claims 16-18 are not examined because they refer to a method that is beyond the scope of the elected composition claims.

This application contains claims drawn to a non-elected invention. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

All rejections not mentioned in this office action have been withdrawn.

New Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 12, 13, and 23-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, Applicants refer to the active agent that is a viral DNA, however it is not clear how the viral DNA is complexed to the peptide.

In claim 13, the full spelling of the name of "MTLP" must be provided. Further, it is not clear how the DNA is in the form of a coated liposome.

In claim 23, the definition of retroinverted peptide must be provided.

In claim 26, it is not clear how the peptide is complexed to the viral DNA particle.

In claim 27, it is not clear how the DNA is in the form of a coated liposome.

Claims 24, 25, 28-30 are included in this rejection because they depend from rejected base claim 23.

Conclusion

Claims 2, 4, 6, 14, 15, and 19-22 are allowable.

No other claims are allowed.

Claims 16-18 are not examined because they refer to a method that is beyond the scope of the elected composition claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agnes Rooke whose telephone number is 571-272-2055. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-273-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have

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questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

AR

E. No. 10-10-10
MARYAM MONCHPOURI, PH.D.
PRIMARY EXAMINER
MARYAM MONCHPOURI, PH.D.
PRIMARY EXAMINER

MARYAM MONCHPOURI, PH.D.
PRIMARY EXAMINER